

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
(WESTERN DIVISION)

FREDDIE JONES, LUKE JONES,	§	
TRENNNA JONES, RALPH JONES,	§	
LAVON JONES and JIMMY	§	
FREEMAN, as Surviving Children	§	
of ELNORA JONES, Deceased,	§	
Plaintiffs,	§	
	§	
v.	§	CASE # 2:07-cv-02120-SHM-tmp
	§	
ABBOTT LABORATORIES,	§	
Defendant.	§	

**PLAINTIFFS' MOTION FOR SCHEDULING CONFERENCE
AND NEW SCHEDULING ORDER**

In view of the confirmation of Judge Donald to the Sixth Circuit and the reassignment of this case to Judge Mays, Plaintiffs hereby move the Court for a Rule 16 Scheduling Conference, at the earliest possible time, and, following such conference, for issuance of a modified or new Scheduling Order in the case. Issues to be addressed at the Scheduling Conference and in the Order include the following:

1. Plaintiffs' appeal from the Magistrate Judge's Order of November 10, 2011 denying them access to Abbott's AEGIS adverse event database in its electronically searchable, native electronic format. (Doc. 180, filed on November 23, 2011).

2. The scheduling of the remaining Rule 30(b)(6) deposition of Abbott's pharmacovigilance witness, Dr. James Embrescia. Abbott has offered to tender up Dr. Embrescia for deposition in Chicago on January 23rd for a deposition that is necessarily limited in scope to the issues, but Plaintiffs' position is that it makes no sense to take that deposition until such time as the AEGIS discovery dispute is resolved. This is particularly so in light of the fact that, in 11 consolidated cases in Cook County, Illinois, there is a scheduling order, issued on December 20,

2011, following a hearing on that date, requiring coordinated discovery with all federal court cases. A copy of the Cook County Court's Order is attached hereto as Exhibit A. Moreover, Plaintiffs have sought the complete adverse event database under the auspices of the consolidated Cook County cases, and hope to have them through that avenue before any deposition of Dr. Embrescia. Exhibit B (Plaintiffs' Request for Production in the Chicago litigation).

3. Rescheduling of Plaintiffs' expert reports. Although the "official date" of the reports is January 6th, the parties have long agreed that the reports would be due 30 days after the completion of the Embrescia deposition. With the above in mind, the modified or new Scheduling Order should specify a date certain for these reports, and other deadlines that track them.

4. Trial. Plaintiffs are, quite naturally, interested in going to trial just as soon as the discovery can be reasonably completed and the Court can accommodate us on its calendar. That being said, we are mindful of the fact that this case has been recently transferred to a new district judge who already has a heavy workload, and of the further fact that the Court may choose to coordinate its trial schedule with a view towards scheduling a trial of this case after the first bellwether trial in the Chicago litigation. These scheduling issues should be discussed fully between the Court and counsel at the Scheduling Conference.

Certificate of Conference

Counsel for Abbott has indicated they do not consent to this motion.

//
//
//
//
//
//
//
//
//
//

Respectfully submitted,

PERDUE KIDD & VICKERY

/s/ Arnold Anderson (Andy) Vickery

Arnold Anderson (Andy) Vickery

Texas Bar No. 20571800

Jim M. Perdue, Jr.

Texas Bar No. 00788180

Fred H. Shepherd

Texas Bar No. 24033056

510 Bering Dr., Suite 550

Houston, TX 77057-1469

Telephone: 713-526-1100

Facsimile: 713-523-5939

Email: andy@justiceseekers.com

Email: jperduejr@justiceseekers.com

Email: fred@justiceseekers.com

Counsel for Plaintiff

Edmund J. Schmidt III

Tennessee Bar No. 21313

LAW OFFICE OF EDDIE SCHMIDT

1720 West End Ave., Suite 300

Nashville, TN 37203

Telephone: 615-425-7121

Facsimile: 615-425-7110

Email: eddie@eschmidtllaw.com

Co-Counsel for Plaintiff

Certificate of Service

I certify that on this 4th day of January, 2012, Plaintiffs' Motion for Scheduling Conference and New Scheduling Order has been electronically filed with the Clerk using the CM/ECF system, which will automatically send email notifications of such filing to the following attorneys of record:

John W. Donley, Esq.
Michael Foradas, Esq.
Andrew P. Bautista, Esq.
Renee D. Smith, Esq.
KIRKLAND & ELLIS, LLP
300 North LaSalle Street
Chicago IL 60654

Jill M. Steinberg, Esq.
Robert F. Tom, Esq.
Emily Turner Landry, Esq.
Kristine L. Roberts, Esq.
BAKER DONELSON BEARMAN
CALDWELL & BERKOWITZ
165 Madison Ave., Suite 2000
Memphis, TN 38103

/s/ Arnold Anderson (Andy) Vickery
Arnold Anderson (Andy) Vickery